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ATTACHMENT 8
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United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Carlsbad Fish and Wildlife Office
2730 Loker Avenue West
Carlsbad, California 92008

In Reply Refer To: FWS-SDG-1597.2

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Branch - San Diego Field Office
ATTN: CESPL-CO-200100215-SKB
16885 W. Bernardo Drive, Suite 300-A
San Diego, California 92127

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SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

RE: Public Notice/Application No. 200100215-SKB, for Calavera Hills Phase II and Bridge and Thoroughfare District Number 4 (intersection of College Boulevard and Cannon Road), Carlsbad, San Diego County, California

Dear Ms. Bryant:

The U. S. Fish and Wildlife Service (Service) has reviewed the above referenced Public Notice (PN) to impact 3.94 acres of jurisdictional wetlands and waters of the U.S., in Calavera Creek (a tributary to Agua Hedionda Creek), in the City of Carlsbad (City), San Diego County, California. These comments have been prepared under the authority, and in accordance with the provisions, of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) and other authorities mandating Department of Interior concerns for environmental values.

The project consists of the development of 781 residential homes, local infrastructure (e.g. roads, utility lines), extensions of two existing roads (College Boulevard and Cannon Road,), and two detention basins. College Boulevard (Reaches A, Ba, and C) would be extended from Carlsbad Village Drive southerly to El Camino Real (approximately 9,500 feet). Cannon road (Reaches 3 and 4) would be extended (approximately 9,100 feet) from El Camino Real easterly to the City of Oceanside. Under the preferred alternative, the proposed project would impact 3.94 acres of jurisdictional waters, consisting of 0.86 acre of alkali marsh, 0.65 acre of riparian scrub, 2.1 acres of riparian woodland, and 0.33 acre of non-wetland waters of the U.S.

Although we have been working with the City and the applicant there are still some project concerns that have not been fully addressed as proposed. The Service is concerned that although the preferred alternative would impact a smaller area of wetlands, the specific location of the intersection of College Boulevard and Cannon Road is an especially environmentally sensitive location. The construction of the "No Intersection Alternative", as described in the Draft Environmental Impact Report (2001, DEIR) would avoid direct impacts to federally listed endangered least Bell's vireo (*Vireo bellii pusillus*; vireo) and their habitat in Calavera Creek, whereas the preferred alternative would place the intersection of the roads directly within the territory of a pair of successfully nesting vireos (Recon 2000).

The applicant's preferred alternative is inconsistent with the regional and local conservation planning. The Service recommends that every effort be made to avoid and/or minimize impacts to Agua Hedionda and Calavera Creeks. Though the "no intersection" alternative would impact a greater area of wetlands than the preferred alternative, the preferred alternative would impact a more sensitive resource (i.e., the habitat of a pair of successfully breeding federally listed endangered vireos). The City has prepared a subarea Habitat Management Plan (HMP) as part of the subregional Multiple Habitat Conservation Plan (MHCP) pursuant to the California Natural Community Conservation Planning Act of 1991. According to the City's draft HMP "Both private and public projects that propose wetland impacts must demonstrate that their impacts have been avoided and minimized to the maximum extent possible. Roads that must cross a wetland will be required to demonstrate that the crossing will occur at the narrowest and/or least sensitive location and that all feasible minimization measures have been employed." In our opinion, the applicants have not adequately demonstrated that the least environmentally sensitive location has been selected. Service personnel examined the site from the adjacent Robertson Ranch property on September 5, 2001, and noted that the site of the proposed intersection (and the vireo territory) appeared to have greater structural and floristic diversity than the remainder of the strip of riparian vegetation lining Calavera Creek on Robertson Ranch. The most critical structural component to least Bell's vireo breeding habitat is a dense shrub layer at 2 to 10 feet (0.6 to 3 meters) above the ground (Franzreb 1989). We contend that the difference in vegetation structure and floristics is related to the vireos' selection of the habitat on the site of the proposed road intersection. The Service recommends that the Corps and the applicant adopt the "no intersection" alternative as the preferred alternative.

While we have concurred on a conceptual basis with this project, we recommend resolution of these issues prior to issuance of the ACOE Permit. We are willing to work with the applicant, ACOE, and other resource agencies in order to accomplish this task. We are currently engaged in formal consultation with the ACOE pursuant to section 7 of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.). During consultation, project applicants must make no irrevocable commitment of resources. We recommend that the ACOE incorporate the Terms and Conditions of the Biological Opinion as special conditions of the 404 permit. Questions regarding this project should be addressed to John Martin of my staff at (760-431-9440).

Sincerely,

FOR Nancy Gilbert
Assistant Field Supervisor

cc: California Department of Fish and Game, David Lawhead
City of Carlsbad Planning Department, Don Rideout and Eric Munoz
Regional Water Quality Control Board, Stacey Baczkowski

Literature cited:

Franzreb, K.E. 1989. Ecology and Conservation of the Endangered Least Bell's Vireo. Biological Report 89(1), U.S. Dept. of the Interior, USFWS, Sacramento, CA.

Recon. 2000. Revised biological technical report for the Calavera Hills Master Plan Phase II, Bridge and Thoroughfare District, and Detention Basins, Carlsbad, California.